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The Opinion

THE OPINION

Volume 33, No.5 STATE UNIVERITY OF NEW YORK AT BUFFALO SCHOOL OF LAW October 14, 1992

Exiled Scientist Discusses Political Repression

by Vito A. Roman, Editor-in-Chief

While taking asylum in the American Embassy in Beijing following the Tiananmen Square uprisings in 1989, Professor Fang Lizhi continued his research in astrophysics and submitted for publication an article on his "small universe" theory. The first footnote in the article asked readers to direct any inquiries to the author's temporary address, the embassy.

When the State Department got wind of this, they quickly asked Professor Lizhi to drop the reference, since it would hurt their negotiations to get him out of China. He complied and some months later the article was published in a scientific journal in Italy. This time it directed all inquiries to a Rome address. Rumors soon followed that the outspoken critic of the Chinese political system would be taking refuge in Italy.

Of course, no such thing happened. Instead, the American government was able to arrange for the release of Professor Lizhi and his wife to the United States. Today he teaches astrophysics at the University of Arizona at Tucson and continues his struggle for human rights in China.

While in China, however, he was often in trouble with the authorities for his views. Although he was considered the nation's leading astrophysicist, he was also an outspoken advocate for democratic reform. In fact, Professor Lizhi is credited with providing the spark which led to the Tiananmen Square uprisings in the Spring of 1989 after writing a personal appeal to Deng Xiaoping, the leader of the Chinese Communist Party, asking for the release of all political prisoners. Prior to this, Professor Lizhi had already been expelled from the Communist Party for encouraging student activism, and had been prohibited from traveling abroad, speaking to foreign journalists, or of writing on political matters.

Since his arrival in the US, Professor Lizhi founded and now serves as director of "Human Rights in China," a New York based organization. He has also received the John F. Kennedy Award for Human Rights, has recently written a book entitled Bringing Down the Great Wall: Writings on Science, Culture and Democracy in China, and continues to speak out on the subject of human rights.

Speaking this past Saturday at the Buffalo Hilton, Professor Lizhi explained that simply saying "human rights" in China was dangerous. His lecture, which was entitled "Science and Politics in China," attempted to explain how science in China has always been at the mercy of its political leaders.

To illustrate his point, Professor Lizhi used a series of transparencies. One depicted a time-line showing how over two thousand years before the development of modern astronomy Chinese emperors constantly used astronomers to predict the future and create the calendars which would make them appear omniscient to their subjects. Another depicted how when the introduction of modern astronomy in the 17th century threatened their traditional power over these calendars, the early modern astronomers were simply put to death.

Dissident astrophysicist Lizhi explains why science is at the mercy of politics in China.

Professor Lizhi claims that modern communist China is no different. The communist government embraced science only for what it could give them, namely, technology which could be used to build weapons to defend the nation. However, the same government abhorred the by-product of the scientific pro-

...Scientist, continued on page 8

SBA President Receives Academic Awards

by Saultan H. Baptiste, Managing Editor

Student Bar Association President William F. Trezevant accepted a double honor last week when he was awarded the John L. Hargrave Legal Scholarship for Academic Excellence and was selected as the recipient of the Phillips, Lytle, Hitchcock, Blaine & Huber Scholarship.

The John L. Hargrave Scholarship was awarded by the Erie County Minority Bar Association at their 10th Annual Awards Dinner, held in the Grand Ballroom of the Hyatt Regency in downtown Buffalo. The award's namesake, John L. Hargrave, was known for opening the first Black law firm in Buffalo, his substantial work in the Black community and his concern for the advancement of minority attorneys in the legal profession. The award was given in recognition of his strong academic performance, significant contribution to law school activities, and commitment to the advancement of minorities in the legal profession.

In his acceptance speech, Trezevant stated that he was honored for being considered for the award, but was mindful that the Hargrave Award carried a duty to reach back and help others through the often difficult law school experience. As a third year law student, Trezevant said that such an award "is a reminder that no one achieves any level of recognition without remembering those who came before and opened doors of opportunity." He concluded with the observation, "We have come far in the advancement of women and minorities in the legal profession, but more still needs to be done."

Trezevant was one of three honorees which included Mrs. Constance B. Eve, wife of State Assembly Speaker Arthur Eve, who won the Community Service Award, and Mr. John V. Elmore, who received the Legal Service Award.

William F. Trezevant

Trezevant also received one of two Phillips, Lytle Scholarships, which included a $2,500.00 cash award. Second year law student, Kedra L. Burgos, was distinguished with the second year law student award.

Established last year by the law firm to reach out to the Buffalo community, the scholarship is designed to encourage minority law students to remain and practice in Western New York. The scholarship was awarded to a minority or disadvantaged student who showed strong academic performance and commitment to remain in Western New York after graduation.

Faculty Alters Policy on Dropping Courses

One of the items on the agenda of last month's Faculty meeting was the policy on dropping courses, specifically the issue of students dropping courses late in the semester. Such late drops have apparently caused past problems for instructors who have structured their courses around active student participation. Students who drop such courses late in the semester, or even mid-semester, cause problems not only for the professor, but also for the other students who had been relying on active input from everyone involved in the course.

In order to prevent the recurrence of such problems, the Academic Policy and Program Committee recommended the following policy:

Policy on Dropping Courses

Some Law School courses are structured to include work assignments such as class presentations or simulations that require extensive student participation to make the educational process effective. In such courses, late course "drops" can be extremely disruptive. To minimize such disruptions an instructor may designate a course as permitting "No Drops After Drop-Add period." This designation should be communicated to students, in writing, no later than one week after the start of classes (and preferably would be included in the course description). When a course is designated as "No Drop After Drop-Add," a student may resign from the course with an R grade after the last day of Drop-Add only with the permission of a designated Law School administrator, upon showing of compelling circumstances. Otherwise, the student will receive a grade based on the instructor's evaluation of his or her work in the course.

The Faculty, without discussion of any sort, unanimously passed this recommended policy. The fact that this issue was not discussed, yet received unanimous approval, seems to indicate that the issue had been all but settled during the past academic year. Before the Spring semester the Faculty unilaterally, and without warning the students, passed a similar policy. That policy was to be in effect for the Spring, 1992 semester, however, the Student Bar Association (SBA) successfully challenged the Faculty's unilateral decision. This challenge evidently forced the Faculty to rethink their decision-making actions and allow at least minimal student input, thereby according the student body with some of the respect it deserves.

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THE PRISONTASK FORCE

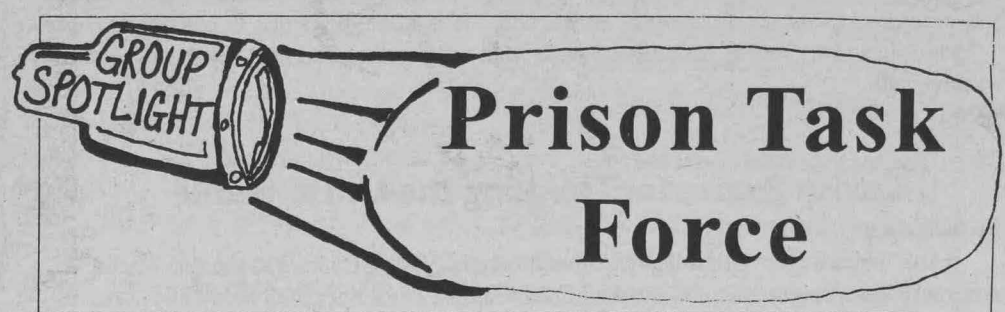
by Kevin P. Collins, News Editor

The Prison Task Force (PTF) was started fifteen years ago in 1977 by a group of law students in the University at Buffalo Chapter of the National Lawyer's Guild (NLG). Many of those law students, who have long since graduated, still work and are affiliated with the NLG. The purpose of the PTF today is the same as its original purpose: to teach inmates how to use a law library. The PTF serves to familiarize inmates with the form and substance of legal research and writing. The PTF prepares inmates for the Department of Corrections (DOC) Law Clerk Exam, which allows them to become a law clerk, one of the highest paying jobs in prison. As a law clerk, an inmate can work on his or her own cases and appeals, as well as those of other inmates.

A secondary purpose of the PTF is to enable law students to visit a correctional facility and to meet and interact with the inmates. It is a good learning experience for both future public defenders and district attorneys, as it offers a strong exposure to the realistic effects of the criminal laws. In turn, inmates teach law students about prisoners' rights issues, as well as about the impact of substantive and procedural law on their daily lives, and what types of legal action and assistance they consider effective.

An average lesson is about a five hour time commitment. Law students leave at 5:00 p.m. and take one hour to get to the prison, stopping along the way for dinner, affording them a great opportunity to socialize and meet with each other. Class usually takes around two to two-and-a-half hours. By the time the law students return home, it is nearly 10:00 p.m.

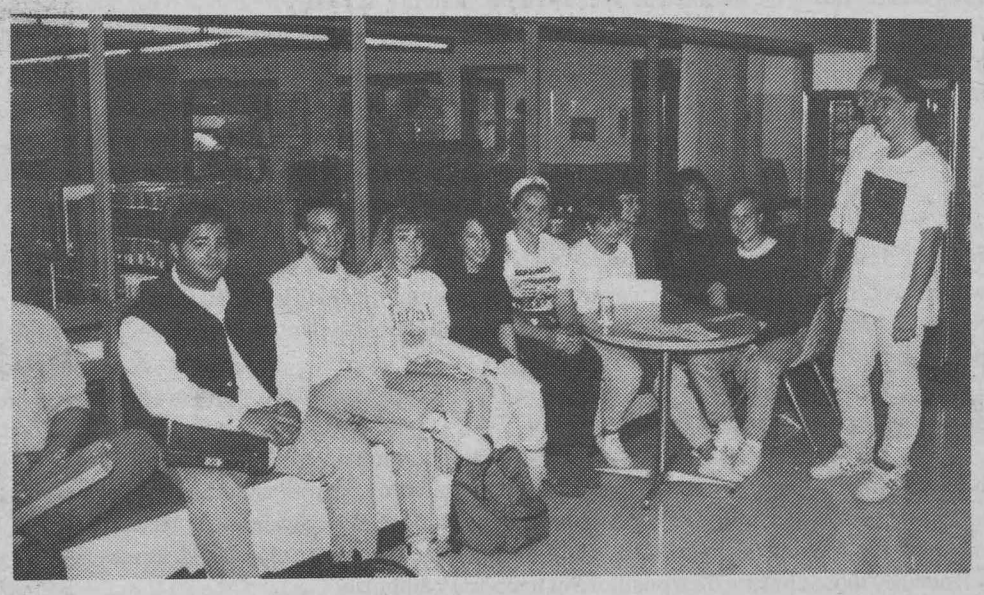
The PTF is an eight (8) lesson course: (1) an introduction to the legal system and how to brief a case; (2) statutes; (3) Court Reporters; (4) encyclopedias and digests; (5) Shepards; (6) legal argumentation; (7) Article 78s; and, (8) a review and exam preparation.



GROUP SPOTLIGHT will be a series featuring a different student group each issue.

Next semester, the PTF plans to go back to Attica, the infamous New York State maximum security, all-male prison. Last semester, the PTF was able to take its program to Attica for the first time. This was the first such program to be allowed into Attica since the riot in 1971. The PTF also plans to teach in a women's prison next semester as well.

Law students who wish to join the PTF may sign up on the list outside the SBA office. The PTF is teaching in three prisons this semester: on Tuesdays, the PTF goes to Collins, a medium security, all-male prison (Coordinators are 3L Scot Fisher, Box # 88 and 3L Scott Rudnick, Box # 225); on Thursdays, the PTF goes to Wyoming, a medium security, all-male prison (Coordinators are 3L Rob Cheng, Box # 41 and 2L Kathi Westcott, Box # 835); and, on Saturdays, the PTF goes to Groveland, a medium security, all-male prison (Coordinators are 2L Sharon Nosenchuck, Box # 734 and 2L Celine Rodriguez, Box # 763).



Dedicated PTF members gather in preparation for a visit to a correctional facility.

Photo: Paul Roalsvig

The PTF serves a vital function in that after a person is convicted and has exhausted one appeal, the right to an attorney ceases. There is no constitutional right to an attorney beyond this point. The effect of this is felt most strongly by indigent inmates who cannot afford continuing legal representation. These indigent inmates are then forced to work pro se on their appeals and other legal problems.

How does the PTF work? Ten to fifteen law students go to prison each class. Once cleared by security, the law students proceed to the prison law library. There, usually around twenty-five to thirty inmates take part in the class. One law student teaches the lesson, usually a 2L or a 3L who has experience in the PTF. This lesson usually lasts for about one hour and is followed by a question-and-answer session. The second part of the lesson, which also usually lasts for one hour, is the small group exercises. Here, two to three law students are grouped with five to seven inmates.

It is not too late to join the PTF. All lessons are on reserve in the law school library-just ask for the PTF Manual under Professor Phillips' name. Copies of the PTF Manual are also available in the NLG office, Room # 118. Any general questions can be directed to 3L Rob Cheng, Box # 41.

The PTF is a student-created, student-initiated and student-run group. It is one of the most active student groups and has one of the largest number of active student members. Traditionally, 1Ls are very active in the PTF and are highly encouraged to join the group and get involved.

Visiting Professor Brings Diverse Background to UB Law

by Michael Radjavitch, Business Manager

Professor Catherine Tinker, visiting from New York University School of Law, is currently teaching United Nations Law and International Environmental Law here at UB Law. Professor Tinker has also taught courses in Criminal Law and International Business Transactions, and will be teaching White Collar Crime in the Spring. She is here primarily due to the efforts of Professor Virginia Leary, and has already contributed significantly to the law school community. Professor Tinker gave a presentation on the subject of Environmental Rights as Human Rights on October 1, and has also organized a speaker series. The first two speakers of this series were Susan Tanner, attorney and Executive Director of Friends of the Earth, and Andras Vamos Goldman, an attorney from the Canadian Embassy in Washington, D.C., both of whom Professor Tinker met through her work with the United Nations Conference on Environment and Development (UNCED). Professor Tinker added that she wanted to start a speaker series that would bring in interesting international lawyers who were actively involved with the "new thinking" on environmental and developmental issues.

Visiting Professor Catherine Tinker

Photo: Paul Roalsvig

She brings a very diverse background to the UB School of Law. Professor Tinker has a B.A. in History and an M.A. in English and Comparative Literature. After receiving her J.D. from the George Washington University National Law Center, she worked as a prosecutor for a number of years, conducted independent research in Brazil for a year, and also clerked and served as the Senior Staff Attorney for the Pro Se Office of the U.S. District Court for the Southern District of New York. Professor Tinker then returned to the academic world and completed an International Legal Studies LL.M. at New York University School of Law in 1989.

In addition to her practical experience, Professor Tinker has also published a number of academic works, including "Environmental Planet Management by the United Nations: An Idea Whose Time Has Not Yet Come?," an article used by a number of law professors as assigned reading. She also presented two papers at the Earth Summit in Rio which are currently being published in English, Portuguese and French. Additionally, Professor Tinker has given numerous lectures on international legal issues, most notably a paper recently presented to the United Nations on "The Changing Role of the U.N. Secretary General."

Currently, Professor Tinker is finalizing a work for the Tennessee Law Review entitled "Environmental Security in the United Nations: A Matter for the Security Council?" She is also the current Literature Editor for the YEARBOOK OF INTERNATIONAL ENVIRONMENTAL LAW. As such, she and her Research Assistants, Ron Olson and Sharon Nosenchuck, are working on an international bibliography which is to include everything published on international environmental law in 1992. Additionally, Catherine Tinker has just been appointed a Commissioner on the Environmental Law Commission of the World Conservation Union (IUCN), an international Non-Governmental Organization developing world conservation strategies.

Professor Tinker concluded by stating that she likes the wide-ranging research interests of the UB Law Faculty, especially in connecting international and environmental issues, and she enjoys the lively discussions with students who seem very aware of world events. She is also getting something more substantive out of her visit with the UB Law community: being located on the Canadian border in the year of the North American Free Trade Agreement, the chance to learn more about the Great Lakes as a potential model for the development of international environmental law, and the opportunity to work closely with Virginia Leary, the Geneva Ford Foundation intern program and the interns themselves.

THE ROAMING PHOTOGRAPHER

The Opinion Editorial Board announces:
"THE ROAMING PHOTOGRAPHER."
Law students will be photographed and asked their opinions on timely issues which affect the law school.
So, be prepared to smile the next time you shoot off your mouth in the hallways!

Engel Named Director of Law and Social Policy Center

Professor David Engel has been named the new Director of the Baldy Center of Law and Social Policy. He has agreed to serve a three-year renewable term in the position.

Engel has been affiliated with the Baldy Center and is an active participant in the Law and Social Policy Association.

A major goal the Baldy Center in the coming years will be to help participating faculty to find and secure external research support. It is hoped that emphasis in this area will bring national recognition to the Baldy Center.

THE OPINION

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EDITORIALS

Parroting Perot

When money talks, who listens? Or rather, who will be listening to what Perot had to say once he has lost the presidential election?

Neither PAC, foreign lobbyist, nor special interest money put H. Ross Perot on the presidential ballot. His own money did. As such, he owes allegiance to no one and can get away with saying whatever he wants. Clearly, much of what he has to say people want to hear.

Perot's presence in Sunday's presidential candidate debate indicates that a large segment of the population has lost faith in the two party system's ability to offer a real choice. President Bush and Governor Clinton, forced to acknowledge Perot's presence on the stage, did not dare attack him, but instead were each relegated to using Perot's views against the other. Each, at moments, tried to sound Perot-like.

But regardless of how much money Perot spends promulgating his ideas, they will probably die unless he is elected, which is not very likely. So the question remains, will his ideas get more than lip service after the election?

Perot's very candidacy provides a challenge to whomever wins the election. He claims that he would immediately implement a plan upon his election, and would not wait one hundred days until the inauguration. Bush or Clinton should be held accountable to this standard.

Make no mistake - Perot and his ideas will eventually be forgotten by the next President of the United States. However, his ghost will haunt future administrations. Who will be able to restrain themselves from thinking, ''What if...?''

Threats from Administration

Jeff Blum's lawsuit against the law school is news, sometimes. When the editors of The Opinion feel new developments in the lawsuit merit coverage, we will cover them. Although two writers at The Spectrum seem to have launched their journalistic careers on Blum's lawsuit, we at The Opinion have seen no reason to add to the information we have already provided on the subject.

Nevertheless, newly appointed Dean of Academic Affairs Thomas Headrick thought it necessary to give The Opinion editors some ''friendly'' advice. He advised the editors of The Opinion that should we consider publishing any ''Blum lawsuit'' material, we should first consult with a lawyer or risk being joined as defendants in a libel action.

This so-called advice is really an idle, yet insulting, threat. Despite the obvious obstacles the administration would have to overcome in order to prove that The Opinion engaged in any libelous conduct, they would find themselves suing themselves, since The Opinion is part of the State University. And, if they were to sue the editors individually, they would be chasing shallow pockets.

The threat also implies that the editors of The Opinion are not careful in selecting which articles will be printed. To the contrary, this is a responsibility we take very seriously. As future lawyers, we are well aware of the consequences of publishing libelous material. It is unfortunate that our administration does not have sufficient trust or respect for our newspaper to feel that they can leave these decisions to the editors.

In the event that The Opinion should find itself on the responding side of a libel action, perhaps Headrick and the Law School Administration could suggest a good First Amendment professor with some free time on his hands....

Opinion Mailbox

A Time for Sex-positivism

To the Editor:

Mr. Morenberg, in his letter to the editor, concludes that ''once we promote the view that female nudity is natural as opposed to provocative we are making the first step toward the eradication of pornography as the tool for the sexual and economic subjugation of women.'' There is a dangerous connotation implicit in this argument; women's sexuality is somehow destructive. It is this exact view that keeps women hidden behind the veil for fear that they may ''tempt'' a man with their ''sexuality.'' The implication? Once women bare their breasts and society sees them as nothing more than ''natural,'' we won't be excited anymore. This dichotomy (natural/erotic) is just like the good girl/bad girl rhetoric feminists have grown tired of a long time ago. An appetite for eroticism is healthy and the assumption that once female sexuality is ''naturalized'' we lose erotic interest is just as insulting as viewing women as only ''sexual objects.''

We need to explore the ways in which women have begun to challenge patriarchal assumptions about desire, and how we have started to create our own visions of erotica so that we can define for ourselves what gives us pleasure.

It is time for women to create a sex-positive spirit (sex-positivism) and use the ambiguity between pleasure and oppression as a tool to examine and celebrate how women experience sexual desire, fantasy and action. It is after this spirit is celebrated, not ''naturalization,'' as Mr. Morenberg states, that we lose the need to ''censor or regulate pornography.

Leslie Pearlman, 1L

Lavish Praise for Thinking the Unthinkable

To the Editor:

In ''Thinking the Unthinkable About the Rodney King Case: Was the Jury Right,'' Andrew Kehrer presents a lucid and insightful response to the knee-jerk politically correct cries of jury racism.

As Mr. Kehrer asserts, the nation was shocked by the violent nature of the videotape, showing Mr. King being beaten repeatedly by an all white group of policemen. The footage conjured images and emotions of an ugly era of history in the American south, where thousands of innocent blacks were lynched to the joy of a cheering mob. Contrary to the hyperbolic claims of the Reverend Jesse Jackson, himself an anti-Semite, and others of his political ilk, this was no lynch mob! Mr. King was given the sobriquet of a ''motorist'' by media luminaries such as Ted Koppell, who conducted several of his Nightline episodes live on the streets of Los Angeles, interviewing the oppressed gang members who were taking a break from burning down their own neighborhood, murdering other blacks, savagely beating whites driving through their ''turf'' and looting and pillaging Korean merchants. Mr. Koppell asked one of the men why he had a tear drop tattooed under his eye. The gang member proudly confessed that when he was in prison, it was a custom for an inmate convicted of murder to have this tattoo. The gang member went on to say that he contributed to the killing of a journalist and gloated that he served a mere 8 years in prison. The compassionate soul, Mr. Koppell with his bleeding heart, went on to call the gang member an ''eloquent young man'' and to place his arm around his shoulder in solidarity with this gangster who was only expressing civil disobedience during the war on the streets of South Central L.A. and Koreatown. This same distorted half truth reasoning was employed by hammering the euphemism of Rodney King the ''motorist'' into the minds of mainstream Americans. If all motorists drove like Rodney King, who as Mr. Kehrer points out led the police ''on an eight mile, 100 mph chase down the

...Letters, continued on page 10

A Letter to SBA President Bill Trezevant

I have been informed that at a recent Student Bar Association meeting discussion was entered into regarding removing me from the Academic Standards & Standing Faculty-Student Committee for my espousal of an unpopular political viewpoint -- in essence, that pornography is a good rather than an evil.

I also note the recent cancellation of all appointments to such committees pending greater notice and interview procedures.

I believe that you owe a duty to the law school community to reaffirm that there will be no ideological litmus test for those seeking appointment to a committee, and a further duty to identify those McCarthy-ite S.B.A. members seeking to stifle academic debate in this manner. It is beyond the pale that in a law school, of all places, the clash of ideas may be silenced by those abusing their positions of temporary authority.

In the interest of service to the law school, consistent with my libertarian/volunteerism philosophy, I have participated in the Fundraising Phonathon; become a mentor to a first-year student through A.W.L.S.; pledged funds to BPILP; volunteered to assist with the first-year research and writing program; and devoted time to two SBA faculty-student committees, agreeing as a time-limited freshman last year to serve on a second committee against my original wishes only after being begged to do so by SBA members who couldn't find enough volunteers.

I served admirably on the ASSC committee, attending all meetings (which were held frequently and at inconvenient times) and reporting back to SBA after each meeting as required. How many other committee appointees can claim the same? Seeking to faithfully represent the student body, I agonized over our many difficult decisions, including one in particular that haunted me for weeks. Dean Filvaroff, Dean Albert, my wife, and any other faculty, administration or student members of that committee can confirm all of this.

I asked to serve on that committee again this year for completely selfless reasons. I already have a job for next summer, and have no need to further pad my resume. I thought that the committee needed continuity in order to bring to fruition some of its attempts at devising consistent standards, as I explained in my original application to the SBA this year.

To think that after my re-appointment of September 20, 1992, I should have to re-apply in an atmosphere of SBA hostility is like a slap in the face after my service to your organization. Will my application be turned down by one of your politically correct minions? Will some ideologue be advised to ''run'' against me so as to close me out?

I voted for you instead of for Mike Radjavitch last year because of your campaign promise to try to bring together the law school's disparate factions. Will you fulfill that promise, or will you allow the imposition of an overt or covert ideological litmus test for committee appointments? It's your call.

John Cody, 2L

Trials

By Natalie A. Lesh — Features Editor

It is unfortunate and ironic that it usually takes tragedy to make people put their lives into perspective. The tragedy last Monday morning, when four people were killed on their way to work, served as a catalyst for me in this regard. I am sure that it had a similar effect upon others as well. The random and senselss nature of such an occurrence is especially disturbing. The realization of one's own vulnerability is inescapable. And unnerving.

The natural response when confronted with this sense of illogical disconnectedness is to engage in an intensive study of one's own life. This may involve a thorough retrospective or a daring prospective. It may involve both. But it will happen.

They strolled along the deserted dock, gloved hand in gloved hand. The fall air threw bursts of ice against their exposed faces. The stars shone in a brilliant and striking contrast to the clear, midnight sky. As they neared the edge, the sound of the waves slapping against the aged wood rose from a whisper to a rhythmic chorus. They sat at the very end, huddled together for warmth, feet dangling above an invisible sheet of water. He told her about the time he had similarly dangled his feet, and had almost had them bitten off by a hungry alligator. His eyes widened as he described how his father had sprinted to him from the opposite end of the pier, lifting him to safety at the crucial moment.

Those who hesitate to look forward will ultimately settle upon a survey of memory. They will recall both the most wonderful and the most painful experiences in their lives. This review, however similar in nature, will be done for many reasons. Many people remember for the purpose of capturing yesterday in an indelible portrait, to be taken out and cherished again and again. Many people remember for the purpose of determining when they could have, or should have, chosen a different path. Still others remember for the purpose of forgetting.

The rain poured fiercely down upon them. Each cold drop struck its target with force and determination. They were both covered with a layer of soft, brown mud. She wiped the hair away from her face and made contact with the ball. With a deep groan, he dove to the right, catching the ball and pulling it tightly to his chest. He returned the ball to her, preparing for the next blow. A clump of the drenched earth clung to his face. She laughed, wiped the hair away from her face and made contact with the ball. The metal fence behind him clanked and vibrated as the ball sharply bounced off of it. He stood up from where he had dived, slamming the ball against the metal fence before whipping it back to her. "Again," he shouted. She wiped the hair away from her face and made contact with the ball.

Those who dismiss the past will focus on the future. Dreams are crystalized and hopes are reborn. As with memories, though, voyages into the future are done for a variety of reasons. For some people it is a welcome outlet for unyielding anticipation. For some people it is a peaceful resignation to the invincible force of time. And for others it is a denial of burning regret, of loss, and of self.

Frank Sinatra sang as they slowly danced across the floor. The dogs circled their unified figure, eager to join in the game. One of his arms circled her waist, pressing gently yet firmly into the small of her back. His other arm was outstretched, his hand providing a warm platform upon which one of her's could rest. Their feet stepped with effortless movement. Their bodies swayed, bonded to the music. Their eyes held, melting into the same glassy pool of divine light. His voice harmonized with that floating through the stereo speakers. She smiled. The world disappeared.

The present is often forgotten in our haste to remember and to dream. Yet, memories and dreams are meaningless without the present; the present provides the definitions through which our memories and our dreams can be understood. In this way, it is all that exists.

It is with the present that we must reconcile ourselves, our pasts, our futures and our lives. It is for the present that we should always be thankful. It is in the present that we must breathe. And it is in the present that we must learn to be happy with ourselves.

This may seem like a selfish attitude- to become absorbed in one's own here and now. And it is. But this selfishness is not negative. It is necessary. A person who is content with him or herself has much to offer others. Those who cannot claim this same self-satisfaction will be unable to provide any productive support to anyone, including themselves. Appreciation for oneself and one's life is the foundation upon which all else must rest.

She was curled up on top of the bed. A thick quilt covered her naked legs. Her eyes stared blankly at the page in front of her. The words swirled in a sea of black and white. The song on the radio sliced through her thoughts of yesterdav and tomorrow. Her eyes focused. With a sigh and a smile, she picked up the pen which had slipped from her weightless hand, and turned the page. In the background, Mick and Carly sang, "You're so vain...you probably think this song is about you. Don't you?"

Too many people become trapped in what was or what will be, in memories and in dreams. Tragedy jerks the present onto center stage with an unsettling harshness. The challenge is to keep it there.

Correction

In the last issue of The Opinion, Dean Headrick was mistakenly referred to as Dean Hendrick.

COMMENTARY:

Critical Look at Historical Analysis in Roe v. Wade

by Andrew Kehrer

It is often argued that the early common law regarding abortion did not punish those who sought abortions before the fetus had quickened. Quickening refers to the stage of gestation when fetal movement can be detected by the mother. This stage varies from woman to woman but usually occurs four to five months into the gestational process. Common law cases such as Commonwealth v. Bangs (1812) and State v. Murphy (1857) are cited as prime examples of how judges applied the common law and thus did not punish pre-quickening abortions. Many argue that this position in the common law reflected a belief that pre-quickened fetal life deserved no constitutional protections.

As abortion became more prevalent in the United States during the early 19th century, anti-abortion laws sprung up in many states. The reason for these laws, claim pro-choice advocates, was to protect women. The procedures used to procure abortion in the 19th century often included the ingestion of home remedy type potions that were sometimes poisonous. Any physical action took to dilate the cervix was also dangerous and unsanitary. Joseph Lister did not introduce antiseptic into surgery until the late 1860's.

From the above interpretation of history, the Supreme Court, in Roe, drew the following conclusions:

1. The common law did not punish pre-quickened abortions.
2. The early anti-abortion statutes were enacted primarily to protect women, not fetal life.
3. Abortion practices in the early 19th century were much freer than in the mid-twentieth century.
4. Fetuses are not persons for purposes of the 14th Amendment.

There is certainly some truth to the arguments of the Court. Abortions were dangerous for women in the early 19th century. Some laws were passed for the purpose of protecting women.

...Abortion, continued on page 10

COMMENTARY:

School Choice

by Gary Simpson, Layout Editor

The recent presidential campaign has raised the issue of "school choice." It is, in fact, included in the Republican Party platform; the position is that competition between both public and private schools is the answer to what is currently ailing the public school system.

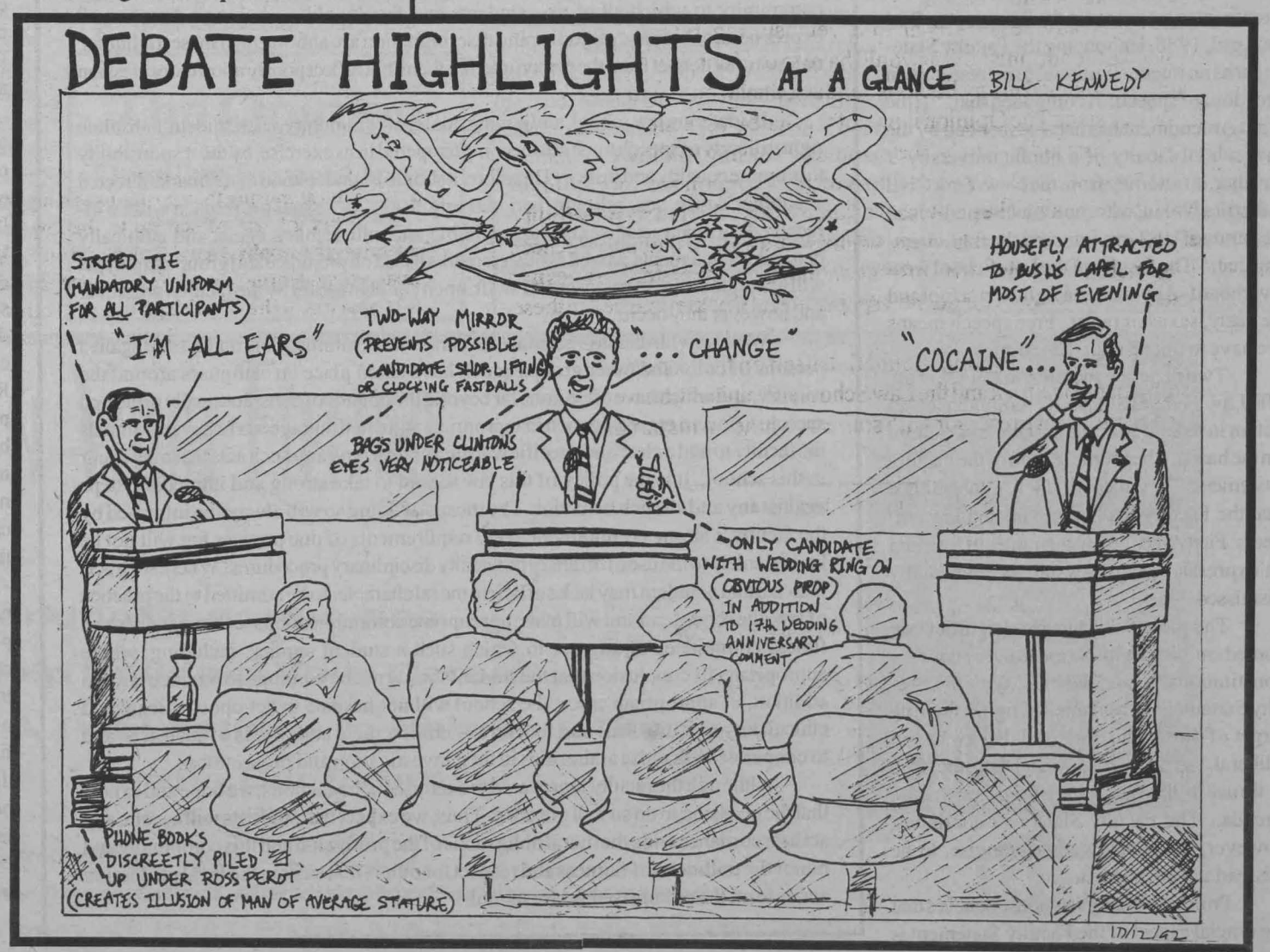
The "school choice" phenomenon has evolved, in part, out of the limited success of "magnet schools" and the declining levels of funding for private and parochial schools. The Republican Party has elevated this issue into prominence over the past years, claiming that it is a remedy for the problems that currently exist in public education.

Theoretically, the notion of "school choice" is a laudable objective. The idea of a school system in which a parent could select from an array of curricula to suit their individual needs would seem attractive to any parent concerned about the present state of eduction. Additionally, such a notion would fit well within the concept of a "free market." Better teachers would be compensated at higher salaries, thereby providing an incentive to all teachers to enhance their skills. The enhanced skills of the teachers would subsequently be imparted to students.

Notwithstanding the merits of the "school choice" concept, its negative attributes outweigh its positive attributes. First, the magnet school premise is questionable in and of itself. The idea of magnet schools is to develop such a reputable school curriculum so as to attract the best and brightest teachers and students. The very problem with this notion is the fact that it has a limited measure of success. In communities where the educational level of all students require improvement, only a select few benefit from "magnet schools."

The second and more compelling reason to disapprove of the notion of school choice

...Choice, continued on page 9



UB Law Policy on Hate Speech Generally Misunderstood

by Natalie A. Lesh, Features Editor

Since its enactment in the Fall of 1987, the "Faculty Statement Regarding Intellectual Freedom, Tolerance, and Prohibited Harassment" (Faculty Statement) has been the subject of widespread discussion, controversy and misunderstanding.

The circumstances which surrounded the adoption of the Faculty Statement are central to any fair analysis of it. Unfortunately, however, this context, inextricably bound to the very meaning and purpose of the Faculty Statement, has been largely ignored.

During the Spring semester of 1987, several anonymous notes were left in the mailboxes of some female law students. The language of the notes varied, but the subject matter was common- namely, explicit anti-feminist and anti-gay sentiment. Some of the notes included direct personal threats against their targets. One woman received, along with a note, a small, stuffed teddy bear with its head ripped off and red nail polish dribbled in the neck area. Another woman's note was accompanied by pieces of dog excrement, wrapped in foil. That same woman's car tires were later slashed in the school parking lot.

In addition to the notes, several acts of graffiti were found throughout the law school: in a stall in the men's bathroom, on desks, on a roll-down movie screen in one of the classroom, and next to pay telephones. The graffiti contained racially derogatory, anti-feminist and anti-gay comments.

These matters were all reported to university security personnel by then Dean Wade Newhouse. The investigation, however, failed to discover the identity of any of the perpetrators.

On May 15, 1987, at the regular, monthly meeting of the Law School Faculty, a recommendation was made from the floor to have the first-year orientation committee focus on the issue of how to discourage the recurrence of such acts. A committee of volunteers was formed to draft a statement which, according to the minutes of that meeting, was for the purpose of "condemning this harassment and the attitudes giving rise to it and making clear the law school's intention to pursue all appropriate sanctions against students found to be responsible for such acts in the future." On October 2, 1987, the Faculty unanimously adopted the Faculty Statement. (See box)

Criticism of the Faculty Statement from both students and the media was immediate. A commentary appeared in the Washington Post in April, 1988 denouncing the Faculty Statement as an unconstitutional prior restraint on freedom of speech. It concluded that, "[t]he First Amendment has been suspended by the law school faculty of a public university." Further, an attorney from the New York Civil Liberties Union, who, not coincidentally is an alumnus of UB Law, joined in the fray, claiming that, "The faculty of the Law School went overboard. Anyone has a right to be a fool and be nasty, sexist or racist. Free speech means we have to put up with these things."

Two male law students, members of the UB Law Federalist Society, commenced an action in federal court against the Law School on the basis of the promulgation of the Faculty Statement. They alleged, among other things, that the Faculty Statement violated law students' First Amendment guarantee of freedom of expression. The lawsuit was eventually dismissed.

The passage of time has significantly cooled emotions with regard to the issue of the constitutionality and desirability of the Faculty Statement. It remains, though, a favorite target of those who criticize UB Law as too "liberal." And, every now and then, the issue is thrust to the forefront of the law school agenda. The Faculty Statement continues, however, deliberately and otherwise, to be misread and misunderstood.

Professor Wade Newhouse believes that the crucial aspect of the Faculty Statement is the distinction it draws between speech and conduct. The importance of such a distinction is clear from the very context in which the Faculty Statement was created. Acts which constitute harassment, intimidation or assault, such as those which took place in the Spring of 1987, are subject to an array of sanctions. Intolerant speech, on the other hand, does not subject the speaker to those sanctions. Rather, such speech will be swiftly and openly condemned by the faculty.

Due to the overwhelming response given the Faculty Statement, Professor Newhouse realized that perhaps the distinction between speech and conduct was not as clear as intended. In September, 1989, he sent three proposed amendments to the Faculty Statement to David Filvaroff, who had recently been named Dean of the Law School. The proposed amendments were given a negative reception from the Dean's office. Newhouse decided not to force the issue, given his status as the Dean under whom the Faculty Statement was adopted. Moreover, he thought it more appropriate to avoid "giving even the slightest appearance of interfering with the administration of the new Dean."

The proposed amendments were drafted in order to emphasize the distinction between intolerant speech and conduct, with respect to how both are to be treated. The first proposed amendment would have substituted the words "disapproval in the form of expression" for the word "condemnation" in the third paragraph of the Faculty Statement. Put simply, this amendment would have clarified that ill-received speech would be met with speech.

The second proposed amendment would have added a sentence to the fourth paragraph, indicating that the "recent acts" referred to in the first sentence were those which occurred in the Spring of 1987.

The final proposed amendment would have inserted headings into the Faculty Statement, thereby explicitly identifying its separate parts. Paragraphs one and two would fall under "Introduction," paragraph three under "Expression Will Be Rebutted By Expression," and paragraphs four and five under "Conduct Will Be Met With Sanctions."

For some, even this clarification of the intent of the Faculty Statement will be criticized as insufficient to overcome its unconstitutional nature.

It is obvious to anyone who has studied the First Amendment, however briefly, that its guarantees are not absolute. The extent of a person's freedom of expression has long been held by the United States Supreme Court to be dependent upon the time, place and manner of such expression. Expression may be especially tempered in the context of schools and universities. There are, of course, other restrictions on the freedom of speech, for example, that expression which is characterized as "fighting words."

But this analysis is irrelevant. The Faculty Statement does not restrict student speech on any level. Rather, it asserts that certain speech is inappropriate and irresponsible for those embarking upon a legal career, and reflects poorly upon both that speaker and the law school community as a whole. The Faculty Statement illustrates the faculty's strong belief that any such speaker should be directly confronted with "critical responses." Speech is therefor neither restricted nor chilled; instead, the speaker is merely guaranteed that the faculty will exercise its equally strong right of freedom of expression. The Faculty Statement will silence only those who are unwilling or afraid to accept an open challenge to their own speech.

The Faculty Statement does not define exactly what conduct may give rise to the application of one or more of the listed sanctions. This absence has led to the charge that conduct which is "expression" and therefore protected by the First Amendment may be improperly punished under the Faculty Statement. Any good faith reading of the Faculty Statement dispels this fear, however- the types of acts referred to are those which occurred in the Spring of 1987, none of which can rationally or reasonably be classified as modes of "expression."

A situation may well arise in which the conduct in question is arguably "expression." The Faculty Statement gives no indication that such conduct will not be protected but instead will be blindly punished. To assert otherwise is to infer malevolent intent on the part of the faculty in promulgating the Statement. There is no basis in fact for such an assertion.

Newly appointed Dean Barry Boyer believes that some changes in the Faculty Statement may soon be necessary. He cites the tremendous number of recent cases involving First Amendment challenges to similar provisions at other universities. Dean Boyer believes that since the law in this area is constantly being rewritten, it will take a concerted effort to determine the precise bounds of policies like the one in effect and UB Law. In fact, Dean Boyer assigned this task to a research assistant this summer.

Dean Boyer, however, is quick to point out that revising the Faculty Statement is not on the top of his list. He claims that a more pressing problem exists: this summer the University codified its disciplinary rules, and law students are currently subject to this code. Although he is not aware of any specific provisions which may be inappropriate to law students, Dean Boyer has asked Professor Reis, chair of the Law School Faculty/Students Relations Board, to look into any potential problems. Dean Boyer is especially concerned because of the unique situation of law students in having to secure admission to the Bar. He notes, however, that the University has indicated its willingness to negotiate changes in the code with the various professional schools.

The Faculty Statement, therefore, is neither the final word on the subject of discipline with regard to law students' speech and conduct, nor the perfect solution to intolerant behavior. It has been a stimulus to discussion of these issues, however, and will be in the future. In order to play a meaningful part in any discussion, though, the Faculty Statement must be taken in context, read in its entirety, and fairly construed. At the very least, it was an exercise worthy of this minimally respectful treatment.

Faculty Statement

Every intellectual community worthy of the name thrives on sharp and heated controversy-- on the free and full expression of opposing ideas and values; on impassioned arguments for, and equally passionate arguments against. Given the particular professional skills required for the practice of law, law schools, including this one, especially prize and encourage such unencumbered give-and-take, the more lively and uninhibited the better.

Because both the common law and two centuries of Constitutional tradition have long given American lawyers a special role in assuring fairness and securing equal treatment to all people, our intellectual community also shares values that go beyond a mere standardized commitment to open and unrestrained debate. We support the particular values shaped by the special traditions and responsibilities of the legal community to which all of us-- students and faculty alike-- belong. Any and all expressions of bigotry, prejudice and discrimination are abhorrent to these traditions; they not only detract from the person uttering them, but reflect poorly upon the profession as a whole.

By entering law school, and joining this legal community, each student's absolute right to liberty of speech must also become tempered in its exercise, by the responsibility to promote equality and justice. Therefore, it should be understood that remarks directed at another's race, sex, religion, national origin, age, or sexual preference will be ill-received, or that racist, sexist, homophobic and anti-lesbian, ageist and ethnically derogatory statements, as well as other remarks based on prejudice and group stereotype, will generate critical responses and swift, open condemnation by the faculty, wherever and however they occur.

We note with dismay recent acts of harassment, intimidation, and assault against persons of color and other groups which have taken place on campuses around the country, and which have often gone far beyond the bounds of constitutionally protected speech. Concern regarding such inappropriate and often outrageous behavior compels the faculty to add a clear and specific warning concerning any such acts that may occur in this school. It is the policy of this law school to take strong and immediate steps against any and all such behavior. The means of doing so will always be informed by the faculty's strong commitment to the requirements of due process but will not be limited solely to the use of ordinary university disciplinary procedures. Where such acts indicate that a student may lack sufficient moral character to be admitted to the practice of law, the school can and will make appropriate communications to the character and fitness committees of any bar to which such a student applies, including, where appropriate, its conclusion that the student should not be admitted to practice law. In addition, in appropriate cases, the school will not hesitate to act upon its legal and ethical duty to notify state and federal law enforcement authorities of such acts, and to cooperate with those authorities in their investigation and prosecution.

Although the faculty is prepared to exercise such sanctions, we hope and expect that the occasion to do so will not arise. Thus, we expect that students will accept, and act in accordance with, the moral obligations of the profession and this community and honor the traditions of fairness and respect for others that sustain the legal profession and inform the culture of this law school.

CROSSFIRE!!

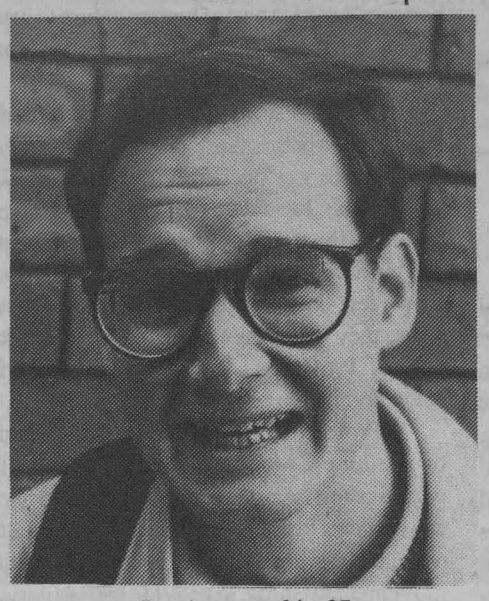
The Opinion Editorial Board announces ***"CROSSFIRE,"*** a new feature to appear in each issue. ***CROSSFIRE*** will be a debate format open to all members of the law school community on a topic selected by the Editorial Board and to be announced in advance of each issue.

CROSSFIRE Topic For the October 27 Issue:
Should New York reinstate the death penalty?

"The Roaming Photographer"

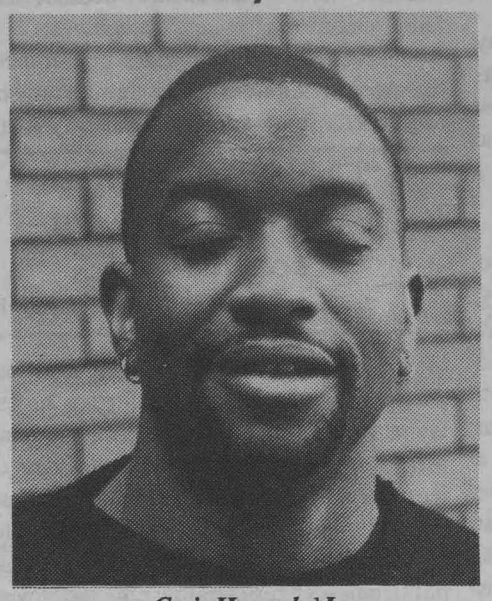
by Paul Roalsvig, Photography Editor

This week's question: What did you think of this past Sunday's televised presidential debate?



Joe Antonecchia, 2L

"I thought Perot actually helped focus the debate on the Republican record over the last 12 years, especially regarding the decline in decent, well-paying jobs. I think his re-emergence will ultimately help Clinton win next month."

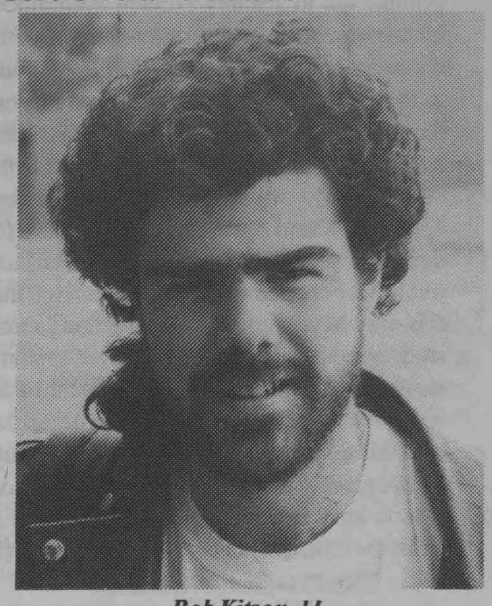


Craig Hannah, 1L

"I felt Clinton and Bush didn't really gain any ground. Perot was humorous but maybe not too effective. People still wonder on his seriousness as a candidate."

Charles Liu, 3L

"Bush sucked, Clinton was alright but nothing to write home about, and Perot was ...too short!"



Rob Kitson, 1L

"Bush proved he's a better politician, unfortunately he presented himself better than the other two. I hope this election is not decided by this debate. Ultimately all three were spouting pre-packaged concepts that show how devoid of new ideas any of them are."

Ambassador Discusses Failed United Nations Negotiations on Biological Diversity

by Tracy Dale Sammarco, Staff Writer

Dr. Andras Vamos Goldman, the First Secretary of Congressional Relations to the Canadian Embassy in Washington, D.C., was the keynote speaker of the "Colloquium on International Law and Organizations: Focus on the Environment" held at O'Brian Hall on September 16. He focussed on the topic of international treaty negotiations at the U.N. Convention on Biological Diversity, held in Nairobi last year.

According to the Canadian Ambassador, the conference presented participating nations with a forum, to create a "wish list" of goals and objectives relating to both biological diversity and natural resource management. A concise document was to be drawn up based upon this list. The problem with the convention, says Vamos Goldman, was that it represented the "lowest common denominator" among nations. The range of goals and issues being presented by those nations was massive.

Vamos Goldman said that the organizational structure of the conference was such that much splintering and fractional negotiating occurred where unity was the goal. Concerns ranged from artificial genetic modification to trade related matters. Where Northern nations might have focused on the preservation of biological diversity, Southern nations pressed for autonomy in controlling economic access to the same. He said that, in general, developed nations felt that there was a danger in absolute sovereignty of resource management for developing nations. The U.S. in particular, he said, did not want to grant an unqualified right to sovereignty within the treaty. The fear was that conservation would be lost in the shuffle.

Further complications were presented by language barriers, haggling over the specific wording of the text and inadequate leadership. The speaker said that, in the end, the bulk of the work was done by splinter groups who then presented finished articles to the conference in general for a vote. Apparently, full agreement on any section of the text was never made possible by the structure of the conference.

This colloquium was the second in a series arranged by Professor Catherine Tinker and co-sponsored by UB's Environmental and International Law Societies. The next presentation in the colloquium will be Jacqueline Dauchy, Esq. of the Legal Affairs, United Nations, New York Office. The event will be held in room 109, O'Brian Hall, on October 14, 1992 from four to six p.m.. More information is available through Professor Catherine Tinker, extension 6184, the International Law Society or the Environmental Law Society.

The Opinion

Deadline for next Issue
Friday, October 23
Leave submissions in
Box 223 or Box 611

Local Lawyers Discuss The Practice of Criminal Law

by Vito A. Roman, Editor-in-Chief

Buffalo law students learned about different aspects of criminal law practice this past Thursday when four local practitioners came to the law school to discuss their work. The career panel, sponsored by the Buffalo Chapter of the Women's Bar Association of New York State, CDO, and AWLS, is the first in a series of discussions which will focus on different practice areas of law.

Ginger Schroeder, the WBA representative coordinating the event, says the career panels are designed "to give law students a sense of what it is like to practice law," since what they learn in classrooms is not necessarily what will help them most when they go into practice. She chose to begin the series with a panel on criminal law because new law students always show a great interest in the area. Also, since there is a lot of turnover in the area, "it presents a good place for young lawyers to get in."

The four lawyers speaking on the panel each practice criminal law in different capacities, and each contributed something different to the discussion, whether it was about criminal law in general or about how to get work in the field. Shiela DeTullio is the third highest ranking prosecutor with the Erie County Attorney's Office. Patrick Carney has been a Public Defender in Buffalo City Court for ten years. Julie Dee and John Elmore are both private practitioners specializing in criminal matters, but each came into the field differ-

...Crime, continued on next page

Mark G. Farrell, UB Law School Class of '72, has been elected president of the University at Buffalo Law Alumni Association for 1992-93.

Farrell is the managing partner in the Buffalo law firm of Farrell & Quackenbush. He is also the chairperson of the Town of Amherst Board of Ethics, chairperson of the Medical Malpractice Committee of the International Association of Defense Counsel, Director of the Western New York Defense Trial Lawyers, a certified advocacy instructor for the National Institute of Trial Advocacy, and a member of the UB Steering Committee for the World University Games.

THE PRESIDENT'S REPORT

by William F. Trezevant, SBA President

As you may know, the committee appointments to Faculty/Student committees have been reopened. After a vote to approve the committee appointments by the S.B.A. Board of Directors, some students expressed concern over the amount of notice that was given to the student body. In an effort to be responsive to the student body, it was decided that the best approach was to start all over, as the cure for democracy, both procedurally and substantively, is more democracy. I understand that this may have caused concern among those students who had previously received appointment letters, however, in the interest of an inclusive Student Bar Association organization, this subsequent step is best in the long run. I apologize for any inconvience and am available to answer all questions or concerns at either the S.B.A. office or my home, 896-0941.

Vice Presidential Election

The next very important item on the agenda is the Vice-presidential election. Just in case you did not know, the petitions are available outside the S.B.A. office on the first floor. As a reminder, a candidate must obtain at least 10% of the student body signatures which works out to eighty (80). All candidates are strongly encouraged to obtain more in order to be safe. The important dates for this election are as follows:

Petitions Due.....October 14, 1992 at 5:00 pm

Candidate Statements for The Opinion .....October 23, 1992, Rm 724

Candidate Forum.....TBA

Elections.....October 28 & 29 outside Library

Eighty signatures from the entire student body is not a great deal for the opportunity to run and contribute to a free marketplace of ideas, regardless of year. And HELL, even Ross Perot thinks he can be Boss for the next four years.

As a final note, I would like to extend my personal and professional thanks and appreciation for the work Former Vice-President Hank Nowak performed over the summer and into the school year before his unfortunate accident. I wish you my best Hank.

S.B.A. Party !!!

Yes, it is here, the next S.B.A. party!!! We will be holding it on Thursday, October 15, 1992 at S.B.A. Class Director Michael Radjavitch's humble abode (573 Linwood Street). It promises to be quite an event. However, in an effort to improve a recent S.B.A. oversight, we will be instituting a "Buddy System" in an effort to address the issue of possible drunk driving to the extent that even it occurs. We, under no circumstances, want any of our colleagues to find themselves in undesirable circumstances. Thus we will have a new and permanent procedure in place by Thursday. I want to thank all of you in advance for your cooperation. Additionally, this means that everyone who comes will have either a ride home or a place to stay. So come, mix, mingle, relax and network. Anyone who is willing to serve as a designated driver please contact me in the S.B.A. office, box #262, or at home 896-0941.

Other Business...

I am finally pleased to report that the hard work which Phi Alpha Delta has been doing is soon to pay off with this year's Law Student Directory. Any suggestions, comments or information should be directed to Saultan Baptiste, Box #611.

Well for now, as they say on the morning radio, "Stick me with a fork `cause I am done."

...Scientist

continued from page 1

cess, free thinking. Professor Lizhi's writings, in fact, were constantly attacked as being "idealist" and "materialistic" because they failed to conform to Marxist teachings.

Even the reform minded government that arose in China during the eighties refused to accept the free thinking generated by scientific research. When Professor Lizhi wrote an article on quantum cosmology for the Chinese layman in a popular magazine, a high ranking officer in the government wrote to the Editor of the magazine to complain that although he had never studied cosmology, he disagreed. The problem, Professor Lizhi commented, is that politicians fear the liberating effects of scientific knowledge.

> ***"Chinese authorities like science, but not scientists."***
>
> Professor Fang Lizhi

"Chinese authorities like science," he continued, "but not scientists." The same goes for education, he says. China suffers one of the world's highest illiteracy rates, and this fact, claims the professor, helps the government maintain its hold over the population. He believes that it is a part of human nature to want choice, but that without education, people are unaware of those choices.

In response to a question from the audience about whether the democratic movement in democracy is occurring only among the intellectuals, he said that the farmers, amongst whom he lived while exiled internally during the cultural revolution, want choices too. However, since farmers have limited educations, they only have a limited idea of free choice. Professor Lizhi hopes that this will someday change.

Professor Lizhi's speech was sponsored by the June 4 Memorial Fund, a non-profit organization founded by Chinese and American students in the Western New York area to promote the democracy and human rights movement in China, to provide humanitarian assistance to activists working on those goals in China, and to educate the public on the issue.

...Crime

continued from previous page

ently. Ms. Dee started practicing criminal law in the private sector upon graduating from UB Law, while Mr. Elmore was a prosecutor in the Manhattan DA's office and in the NY State Attorney General's office in Buffalo before putting out his own shingle.

While each attorney addressed the career panel topic from their unique perspective, they also shared some views about the practice of criminal law. For example, they all agreed that criminal law is not for the bookish type, but rather for that type of individual unafraid to speak up, and that the litigation experiences obtained in criminal practice help make any attorney more marketable.

Ms. Detuillio, the only prosecutor in the group, calls her work "fun and exciting" and says she has never dreaded coming in to work during her twelve years at the DA's office. What she enjoys most about the job is that it continually gives her that opportunity to use her judgment. "DA's," she says, "have tremendous responsibilities," but, in the end you "feel you have helped somebody." She tries, for example, to use the plea bargaining process in a "socially beneficial manner," and admits that "the hardest part of her job is making the judgments of what to let go, plea, or take to trial." For this very reason, she explained, her office looks for well-rounded candidates, usually with some work experience, who exhibit a high degree of common-sense, and possess strong communications skills.

As a public defender, Mr. Carney realizes that the public generally does not have high regard for his work, since they often see it as merely helping keep criminals on the street. In fact, he says, if it was not for the constitutional mandate to provide defense for the indigent, his office would get no public funds. Nevertheless, he says he works with one of the best group of lawyers in the state, partly because so many of the lawyers he works with have been with the office so long.

Trial lawyers, he continued, have to think on their feet. In fact, Mr. Carney advised that those in the audience considering criminal defense work realistically assess themselves before committing themselves to such a career because "if you can't stand in front of a hundred people that you don't know and speak about a subject that may be you have no knowledge of, your going nowhere. Don't kid yourselves." Furthermore, he continued, criminal defense lawyers have to "have the stomach for the people they defend," people they wouldn't usually associate with, and which, as a public defender, are simply assigned to them. "You're not throwing out your back" in this type of work, he reminded everyone, "but it is hard."

Ms. Dee, in turn, spoke mainly about how she broke into the field, and offered similar suggestions to students. When she graduated from UB ten years ago the market for lawyers was tight, just as it is now. She came upon her job, she says, by chance, and started doing the office criminal work, mostly traffic tickets and DWI cases in the night courts in Buffalo's outlying town courts, because the older partners didn't want to be bothered with it. As she became more confident, the trial work become more complex.

Today Ms. Dee is a partner in the firm and mainly does litigation. About this type of work, she says "you have to work at it, do your own research, write your own arguments." These all are time consuming, she says, but "criminal law is not for the faint hearted." She suggested that those looking to break into the field volunteer time as students with firms, the DA's or the Public Defender's office. For those already graduating, she suggested the assigned counsel program, which pays little but offers a young attorney the opportunity to get in court.

John Elmore, who is now in private practice but had formerly been a prosecutor, discussed the differences between a prosecutor and a defense lawyer, as well as the major practical consideration of practicing criminal law privately, i.e., money. The role of prosecutors, he said, is to seek justice. The criminal defense lawyer, however, has to defend his client vigorously regardless of guilt. As such, in private practice it is important for the lawyer to understand just how much time he will have to devote to a case, and charge accordingly. "Most defendants can't afford to keep you in court long," he says, so he prefers to make money negotiating pleas.

Early in his practice, he sometimes relied on the word of defendants who promised to pay him in installments, but never did. He has since learned otherwise, and now says he simply "hates it when he gets stiffed." Now he also understands how important a lawyers reputation is in private practice, since lawyers who lose cases get few referrals.

Newest Law School Group Sings it Up

by Bob Gormley

Spurred on by an influx of enthusiastic 1Ls, the UB Law School's Karaoke Club brought the house down last Friday night at the Stuffed Mushroom. Shamelessly crooning until the wee hours, the group (including this humble reporter) did their best to stretch the definition of words like "harmony" and "rhythm" to fit their cacophonous efforts. What was lacking in smooth tonal quality, however, was more than made up for with volume and passion.

Spearheaded by spiritual leader and musical guru, Mo "Ol' Brown Eyes" Juliao, the lyrical law students provided highlights aplenty. The raucous crowd was whistling and stomping their approval during a rendition of "The Gambler" when sung by Mo and the unflappable Dave Nemeroff. Mo later returned to the stage with Chip Russell to snap out a neat version of "Mack the Knife." After hearing these guys sing, the audience could only ask itself, "What the heck are these guys doing in law school?".

Billing themselves as the "Legal Eagles," the entire group performed a leg-kicking and show-stopping rendition of "New York, New York." First year Karen Judd, who led cheers and danced energetically all night long, allegedly assisted in choreographing this eye-popping number. For the record, there is no truth to the persistent rumor that Ms. Judd was dancing on the tables at any time during the evening. (Anyone having information about any other rumors concerning Ms. Judd can deposit it in Box 109).

Another memorable moment occurred when an all-male contingent --the "Legal Briefs"-- belted out their version of "Like a Virgin." While not nearly as racy as Madonna's video, it may well be enough to keep any of the crooners off the Supreme Court. C'est la vie.

Throughout the evening, two veteran 3Ls, Jennifer Krucher and myself, did our best

...Crooning, continued on page 11

Bridget's Blotter

There has been a lot going on around the SBA these days. Hank Nowak has now officially resigned as the SBA Vice President, and we will be holding an election to replace him on Wednesday and Thursday, October 28th and 29th. Please come out and vote.

We will be having an SBA party this Thursday, the 15th, at Michael Radjavitch's house at 573 Linwood Avenue in Buffalo. There will be a $3.00 cover charge, and all of the proceeds will be donated to the Seneca Nation Education Fund. It's for a good cause, so tear yourselves away from O'Brian Hall and come out for some good old- fashioned drinking. There will be lots of beer!

Paul Beyer, a first-year class director, asked that I mention something about the Research and Writing Program to help alleviate first-year concern over it. You may feel like you are wasting your time this semester listenting to what seems more like poetry than research and writing instruction. The second semester, however, is very beneficial, and I found that I spent the majority of my time working on Research and Writing assignments. So, try not to fall asleep, and don't worry, because it does improve, and you will find yourselves staying up very late working on little Research and Writing projects next semester.

In lieu of any interesting gossip, other than that I was an eyewitness last week to a certain former Dean and a Legal Profession professor jimmying locks on the fourth floor. I'll give you all a little consumer advice. If you haven't gotten a copy of your TRW Credit Report within the last year, call 1-800-392-1122 to receive a complementary copy. You may find it very interesting.

Lastly, yes it's true, Professor Schlegel is moonlighting as a cover model. Take a look at this year's law school application packet.

...Letters,

continued from page 4

Los Angeles freeway,'' there would be anarchy on our highways.

The next half-truth set forth by the media, was a conspiratorial theory that the officers were tried in front of an all white jury outside of L.A. proper in order for them to be acquitted by the inherently racist population of Simi Valley, a conservative middle class white enclave where many police officers reside. In this case, a change of venue was granted at the discretion of the trial judge because of the constitutional requirement that the jury be fair and impartial. After arduous and extensive Voir Dire, this task proved impossible. Even the prosecution acquiesced that a change of venue was the only avenue remaining to insure that the case would not be a kangaroo court. The central flaw in the prosecution's case which led to the acquittal of the officers was not the change of venue, as the media-hog Reverend Jesse Jackson would have the American public believe, but the fact that Mr. King himself did not take the stand to confront the officers and favorably impress the jury that he was an innocent and random victim of police brutality. The prosecutor and the media evaded explaining the curious absence of Mr. King from the courtroom. The real reason why Mr. King did not take the stand is evidentiary in nature. His reckless conduct and wanton disregard for the police orders endangering the lives of himself, his passengers, the police officers, and other drivers on the road would be heavily scrutinized under cross examination; moreover, any prior bad acts he committed which would go to his veracity and truthfulness as a witness would be shed in front of the jury. The jury would probably not be told exactly what offenses and crimes King had been convicted of, but would hear an anesthetized version under the balancing test of probative value v. prejudicial effect. That would be California's version of New York's Sandoval hearing. The argument that 30 seconds of videotape should have sufficed to prosecute all the police officers, thus making Mr. King's appearance on his own behalf a waste of time is exactly that, a waste of time.

The death toll from the L.A. riots was higher than Newark, Watts, Detroit, Chicago or any other riot in American History. All of the death and property damage was a great tragedy. We all watched on t.v. as thousands of Korean merchants watched everything they saved and worked for go up in smoke. Like the Jewish merchants of the 1950s and 1960s in L.A., the Koreans were abandoned by the police commissioner and were forced to fend for themselves against a livid mob that scapegoated them for their economic hardships. These are the Koreans who came to America penniless, like the Eastern European and Chinese immigrants two generations hitherto, carrying with them the hope and the dream of making it in America, of personifying Horatio Alger's tale of rags to riches. These are the Koreans who foreswore their ancient polytheistic religions and converted to Protestantism and Catholicism to assimilate. These are the Korean small business people from the fruit store owner in Brighton Beach Brooklyn to the shoemaker in Poughkeepsie to the florist on Market Street in Philadelphia to the restauranteur in Manchester, New Hampshire who work enduring fifteen hour days, with blood, toil, tears, and sweat, to keep themselves off the dole and provide their children with a bright future in the professions and strong family values to pass on to the next generation. I salute the Korean boy in Los Angeles who took up arms to protect his father's store from looters. I salute the Korean woman who stood in front of the shattered glass of her ransacked grocery store and yelled ''this is America, go away!'' She risked her life to protect what was left of her world.

To the leftists and self-haters of the National Lawyers Guild and the critical legal studies academicians who view the American judicial system as a vehicle of oppression perse through the blinders of their immutable agenda, no explanation regarding the Rodney King verdict can be accepted except that it was racist. Mr. Kehrer eschews that dogma and shines through the congenital abyss of thoughtless conformity, as a beacon of hope that the myriad socio-economic problems and disparities in America can be resolved equitably vis-a-vis the rule of law, and a quest for the highest American standards of fairness in dispersing justice, not the might of a mob or the overthrow of our constitutional form of government.

David Lask, 3L

Of Life, Law and Christopher Columbus

by W. F. Trezevant, Staff Writer

After 500 hundred years, the wind has finally left Christopher Columbus's sails. The ''Great Discoveror'' of the Americas has tied his lonely and tired ship to the dock of truth. In an age when we as a nation are looking inward, reassessing where we've come from, what we've done, and where we need to go during this time of change, perhaps we might begin with the legacy left by the man whom so many of us still honor as great.

While some among us extoll the benefits of progress, industrialization and achievement, for the majority of the people who used to populate the Americas, and now make up the underclass in the United States we can only extoll five hundred years of oppression, slavery, exploitation and inhumanity at the hands of our ''brothers''.

We only see the decades of struggle against the laws which past law students, much like ourselves, drafted and approved. We see the long story of the lives lost in this seemingly eternal struggle for what is uniformily considered basic.

What lesson are we to draw from this anniversary? I think two. I'm sure all of us can easily intellectualize the first lesson that Chistopher's behavior is the anti-thesis for future world participation, particularly in light of our role in the ''New World Order''.

The second lesson is somewhat tougher as it requires each of us to examine our own actions, opinions and perhaps beliefs. As a starting point for your personal discussion, you might ask whether or not you were upset, outraged or non-commital over the recent murder of a youth by a Buffalo Police officer who's gun alledgedly discharged into the head of the youth fatally wounding him as he opened the door of his car?

Was this a simple mistake, misshap, or highly likely given the way today's youth rampage through the streets? Did he deserve it? Did he deserve it based on his melanin count? And how do we factor in the Rodney King experience? We, as a community, have been so outraged in the past over ''wrongs'' which have occurred to our fellow students, so why aren't we likewise outraged when a ''wrong'' occurs to our fellow community member?

These, I hope, are questions which we will at least attempt to answer individually if not collectively. Life is so fleeting, our time here so short, and the tommorrows before us so plentiful. There is much we can all gain from interaction with each other. Much can be passed on before we leave this earth. And yet, we remain forever embroiled in the battles of yester year over basic issues of dignity, excellence, compassion, and hope.

I remain optimistic on this anniversary, and I you are too.

From the Balcony Seats

by Bob Garnsey

Before it degenerated into kooky cosmic camp and terminal silliness, David Lynch's ''Twin Peaks'' was one of the most novel, original, and fascinating series ever seen on television. Now, nearly two years after the show was mercifully put to death, Lynch's cinematic vision of the fictional Northwest town has been released in the form of ''Twin Peaks: Fire Walk With Me.''

Fans of Lynch's work will no doubt recognize some familiar themes: the bizarre, grotesque, outlandish dream imagery, and the dark, twisted undercurrents of small-town life. Freed from the limitations of television, Lynch uses the film to delve more deeply into the nightmarish underbelly of Twin Peaks, focusing on the days and nights leading up to the murder of Laura Palmer (now that everyone knows who the killer is, of course).

Unfortunately, ''Twin Peaks'' is a schizophrenic film that achieves very mixed results. The first half hour holds great promise, highlighted by an excellent performance from Chris Isaak as Special Agent Chet Desmond, and a hilarious cameo by Lynch himself as the hearing-impaired FBI Chief Gordon Cole. Filled with memorable images and the sort of demented humor that enlivened the TV show, not to mention some wonderfully odd dream sequences, this part of the film makes the viewer hungry for more. But then this promising storyline comes to an abrupt halt, and the scene shifts to the Town of Twin Peaks. The film goes straight downhill from there.

The rest of the movie follows Laura Palmer (Sheryl Lee) on a slow, painful descent into decadence and degradation that will end in her brutal murder at the hands of her father, chillingly portrayed by Ray Wise. As the doomed homecoming queen, Lee does a fine job of conveying the helplessness and terror of a young girl caught in a web of incest, drug abuse, and forced prostitution. Indeed, the most effective part of the film is its deep sense of impending doom, of an all-consuming evil force (spelled B-O-B) beneath the gentle veneer of the town that, as even Laura seems to know from the start, will eventually take her life.

However, the film is interminably long, dragging out the Laura Palmer death-watch to the point of boredom. There were at least three times when I thought it was finally going to end, but it just kept going and going, like the Energizer bunny. What is more, the latter part of the film has none of the quirky humor and oddball characters that made the beginning of the movie and the TV show so interesting. In fact, most of the notable weirdos from the series- the Log Lady, Nadine (she of the eye patch and obsession with curtain runners), and Pete Martell, to name a few- are absent here. I would also add that Moira Kelly, as Laura's best friend Donna, is a poor substitute for Lara Flynn Boyle.

Had Lynch given this movie more balance, making it a good deal shorter while countering its darker themes with the offbeat, playful tone of the opening sequence, this might have been a very good film. But as it is, it's more like two movies, and the results are predictably mediocre. A major disappointment.

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CONGRATULATIONS AND GOOD LUCK!

...Schools

continued from page 5

is its inherent unfairness and discriminatory effect. Generally, ''school choice,'' as proposed by the President and the Republican party would be funded by tax revenues. However, this public funding will be dispersed not only to public schools, for which it was intended, but to private and parochial schools as well.

There is fundamental inequity in the notion that funds intended to educate children attending the public school system may instead go to wealthy children whose own public school systems in the suburbs generally receive twice the funding of their inner-city counterparts. Additionally, there is already a constitutional provision which prohibits using public funding to pay for religious instruction.

The proposed funding mechanism for ''school choice'' is a one thousand dollar voucher. I recently asked a friend how much he paid to go to a private high school. He stated that two years ago his private school costs were in excess of four thousand dollars for tuition. FOUR THOUSAND DOLLARS- solely for tuition. How much utility will a one thousand dollar school voucher have for families barely able to make ends meet? This voucher will simply help that portion of the public that falls just short of the ability to afford private and parochial schools. Suffice it to say that this does not apply to most inner-city families. Thus, there lies the inequity predicated upon the notion of class.

Inherent in such class discrimination lies both racial and gender discrimination. The discrimination exists in the fact that we will retain the same structure that already exists. District lines within which children will be limited to the same old schools will remain. Within these districts, school administrations will retain the discretion to turn away children based upon the criteria it has historically used. As a result, districts which have historically segregated their schools can continue to do so under ''school choice.'' In other words, ''school choice'' is not just another give-a-way to the wealthy. It is simply a funding mechanism whereby private and parochial schools that are unable to survive independently may exploit the public coffers for their benefit.

...Abortion

continued from page 5

It is very wrong, however, to conclude that this is the only interpretation of history that the Court could have subscribed to. There is a strong body of evidence that suggests that many of the laws passed in the 19th century that proscribed abortion were passed for the explicit goal of protecting pre-quickened fetal life.

Very little was known about the biological aspects of reproduction during this period of American history. Prior to the 1820's, it was felt by lay people and medical people alike that the male sperm contained a miniature person which imbedded itself in the womb and slowly grew to fruition. It was not known if the baby was alive until the mother could feel it move inside her. Thus the quickening doctrine developed as a method of proof. Before quickening there was no proof of life, so nobody could be punished for harming the pre-quickened fetus. Viewed is this light it is obvious that the quickening doctrine did not pass judgment upon when life began, but rather was a practical way of proving a crime had been committed.

In the late 1820's, the mammalian ovum was first discovered. This embryological breakthrough dramatically altered the position of many people on the topic of abortion. For the first time, there was medical proof for the proposition that life begins at conception. For many, this new discovery lead to the conclusion that when the sperm and the egg unite there is a new inviable life that deserves the full protection of the criminal law.

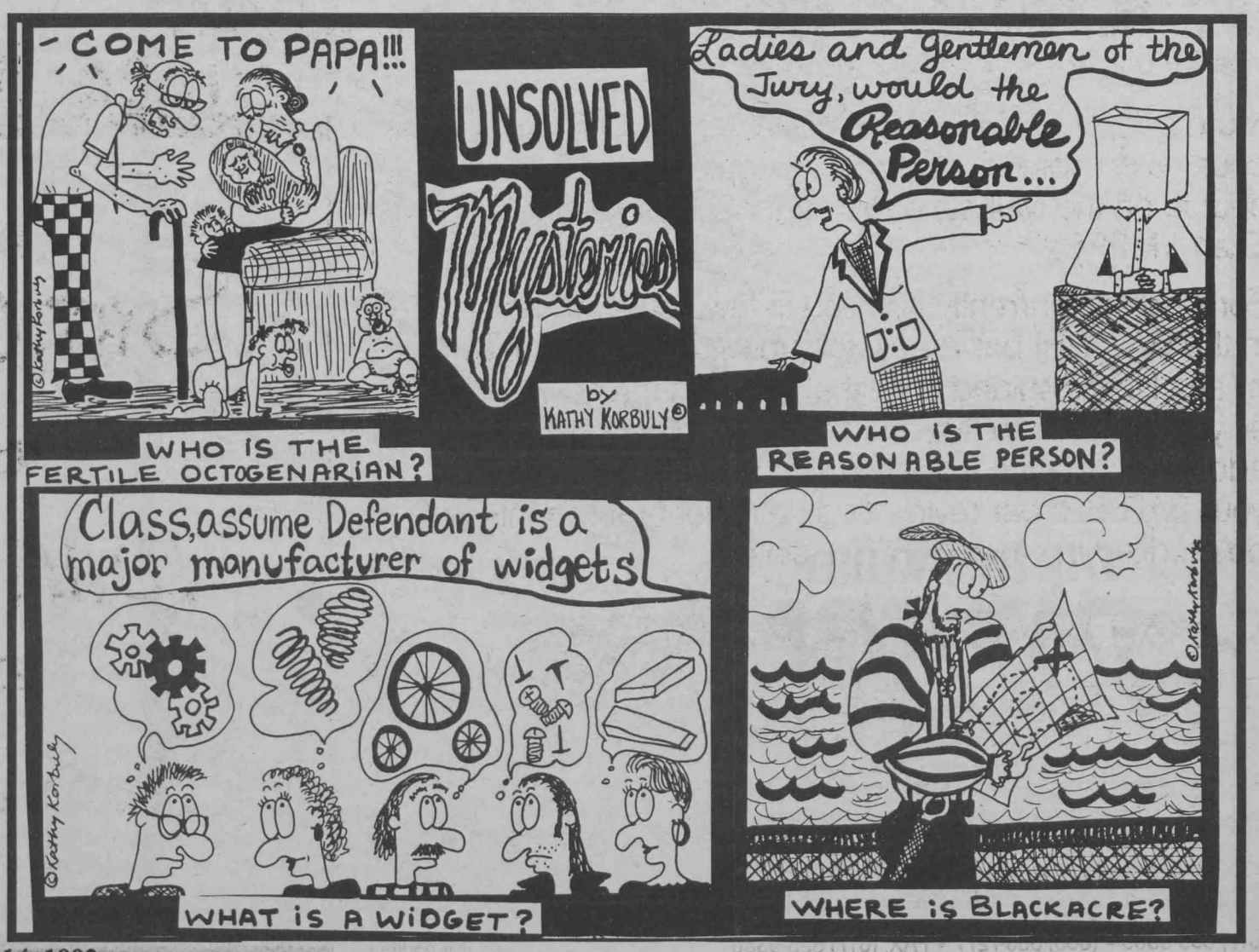
In the United States the medical profession lead the anti-abortion charge. Horatio Storer, a Boston physician, lead the AMA's assault on abortion. His book on criminal abortion was among the first ''pro-life'' books written.

In 1867, in New York, doctors united and sent an anti-abortion resolution to the New York State Legislature. The resolution stressed the need to protect fetal life as the chief reason to outlaw abortion. Two years later the Legislature adopted a new anti-abortion law and incorporated much of the doctors' resolution in it. Abortion was made illegal regardless of whether the fetus had quickened or not.

The common law case cited by Justice Blackman in Roe v. Wade shows how the quickening doctrine was invoked in a 1858 New Jersey case. (State v. Murphy) Interestingly, there is an 1850 case that came out of Pennsylvania that was also decided under the common law but not cited by the Supreme Court. This case, Mills v. Commonwealth, is highly critical of the quickening doctrine. It held that the quickening doctrine ''is not the law of Pennsylvania and ought never to have been the law anywhere. . .By the well-settled and established doctrine of the common law, the civil rights of an infant in ventre sa mere are fully protected at all periods after conception.''

It is thus clear that many men at the time opposed abortion- not for the reason that it endangered women's lives- but because it killed viable forms of human life. (As many feminists know, most early feminists were also opposed to abortion.) So, for at least 175 years, there has been opposition to abortion. This opposition was not based on some fanatical religious idealism, but rather on the simple belief that life begins at conception.

(For the sake of brevity I have not included citations or footnotes. Anyone who would like cites for the cases I discussed, please place your requests in Box 148.)



The Docket

What: Alicia Partnoy, former Prisoner-of-Conscience in Argentina, Poet, Author and Human Rights Activist
When: Wednesday, October 14 at 3:30 pm
Where: Faculty Lounge (Room 545), O'Brian Hall
Lowdown: She will speak on her experiences and read her poetry.

What: "The Defiant Ones," a film presented by the Crime and Punishment Video Series
When: Wednesday and Thursday, October 14 and 15 at 6:15 pm
Where: Room 106, O'Brian Hall
Lowdown: Admission is free.

What: "The Times of Harvey Milk," a film by Epstein and Schneichen
When: Thursday, October 15 at 7:00 pm
Where: Room 108, O'Brian Hall
Lowdown: Milk was the openly-gay member of the San Francisco Board of Supervisors who was murdered.

What: First Annual International Alumni Dinner, honoring Professor Virginia A. Leary
When: Friday October 16; reception at 6:00 and dinner at 7:00
Where: Center for Tomorrow
Lowdown: Hosted by the International Law Alumni. Tickets are 25$ per person. For more info, call Jennifer L. Krieger at 633-9667.

What: Barbara Kavanaugh, Attorney and Mother
When: Tuesday, October 20 at 6:00 pm
Where: Faculty Lounge (Room 545), O'Brian Hall
Lowdown: She will discuss the recent adoption of her children by her lesbian partner.

What: Assistants for teaching Research and Writing are needed for the Spring semester, 1993.
When: Interested students should submit a letter describing their qualifications for the position and a resume to the Dean's office (319 O'Brian) no later than Tuesday, October 20.
Lowdown: The job carries a stipend of $1650 and one-half tuition waiver for the semester (total compensation = $2900).

What: Attention Law Students: Rugby Players Wanted!
When: Practices are Tuesday and Thursday evenings at 6:00 pm
Lowdown: Join the Buffalo Old Boys Rugby Club. They are a travelling squad that will be going to Ohio, Albany, New York City, and Rochester. For more informa tion, call John at 885-2143 or leave a note in box 142.

What: "The Tracy Thurman Story," and speaker Judith Olin, Clerk of Erie County Family Court Judge O'Donnell
When: Wednesday, October 14 at 5:00 pm
Where: Room 106, O'Brian Hall
Lowdown: Domestic Violence Awareness Month Film Event

What: "The Burning Bed"
When: Monday, October 19 at 4:00 pm
Where: Room 109, O'Brian Hall
Lowdown: Domestic Violence Awareness Month Film Event

What: "Something About Amelia"
When: Monday, October 26 at 3:30 pm
Where: Room 109, O'Brian Hall
Lowdown: Domestic Violence Awareness Month Film Event

What: "Scared Silent," and speaker Amy Jo Fricano, Niagara County Assistant District Attorney
When: Tuesday, October 27 at 4:00 pm
Where: 1st Floor Lounge, O'Brian Hall
Lowdown: Domestic Violence Awareness Month Film Event

What: "A Question of Identity: Biological Testing and the Law''
When: Saturday, October 24 from 8:30 am to 12:00 pm
Where: Center for Tomorrow
Lowdown: Speakers include: Gary M. Stuhlmiller, Isabel Marcus, Scott E. Friedman, and Shari Jo Reich. RSVP to University at Buffalo School of Law Alumni Office, 320 John Lord O'Brian Hall, North Campus, Buffalo, New York 14260, (716) 645-2107

...Crooning,

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to chaperon this inexperienced bunch of potential tortfeasors. When given leave to sing, however, we did our best not to let a naturally shy demeanor get in the way of embarrassing ourselves mightily. My unfortunately sober version of ''Come a Little Bit Closer'' would certainly have been abetted by a few more ounces of ale. Later in the show, I was able to survive a choppy rendition of ''Under the Boardwalk'' with some much needed and appreciated assistance from Dave N. Jenn and non-law student, Sarah Breen, made a great effort to complete a version of ''Enough is Enough'' despite the fact that the Karaoke machine kept malfunctioning. Ms. Breen, who is the sister of a law school alum, ended the night with a powerful ''Over the Rainbow'' which brought tears to many in the audience. What a night!

Anyone interested in attending future Karaoke nights should seek out any of the people mentioned in this article. All are welcome.

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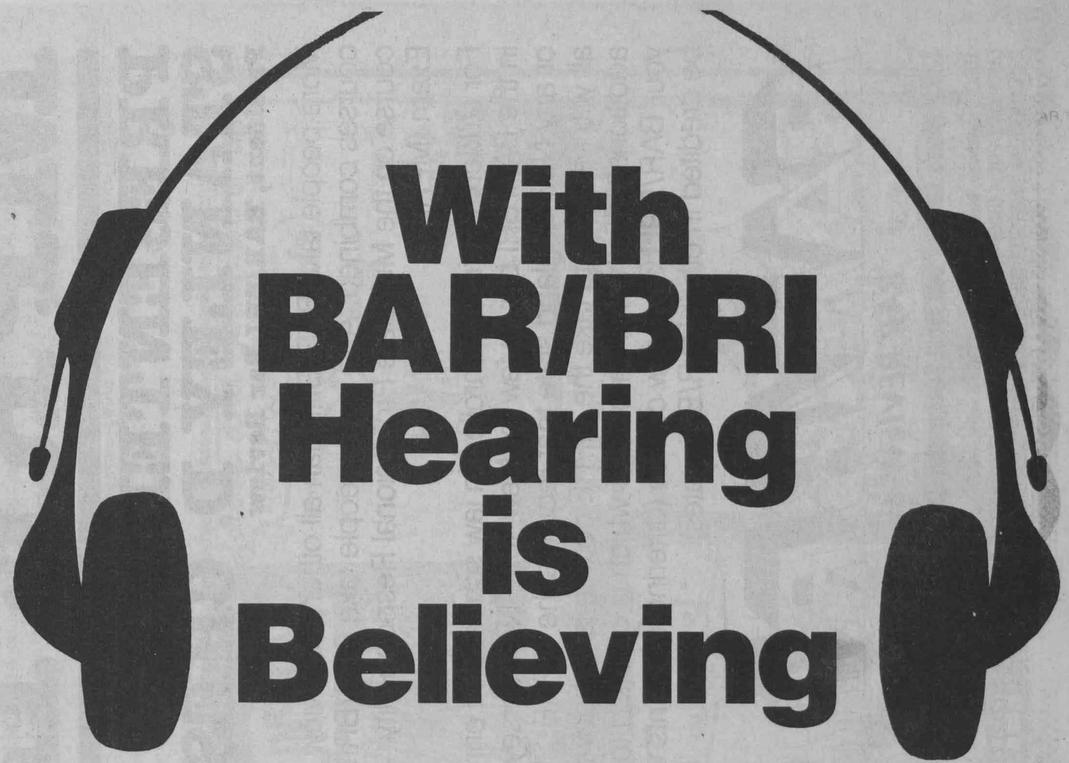

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